

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MITCHELL KEITH GOODRUM,

Case No. 3:20-cv-00573-MMD-CLB

Plaintiff,

ORDER

CHARLES WOODMAN LAW FIRM, *et al.*,

Defendants.

11 Pro se Plaintiff Mitchell Keith Goodrum brings this action under 42 U.S.C. § 1983.
12 Before the Court is the Report and Recommendation (“R&R” or “Recommendation”) of
13 United States Magistrate Judge Carla L. Baldwin (ECF No. 4), recommending Plaintiff’s
14 complaint be dismissed without prejudice, but without leave to amend. Plaintiff had until
15 November 2, 2020 to file an objection. To date, no objection to the R&R has been filed.
16 For this reason, and as explained below, the Court adopts the R&R, and will dismiss the
17 complaint without prejudice and without leave to amend.

18 The Court “may accept, reject, or modify, in whole or in part, the findings or
19 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party
20 fails to object to a magistrate judge’s recommendation, the Court is not required to
21 conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas*
22 *v. Arn*, 474 U.S. 140, 149 (1985); see also *United States v. Reyna-Tapia*, 328 F.3d 1114,
23 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and
24 recommendations is required if, but *only* if, one or both parties file objections to the
25 findings and recommendations.”) (emphasis in original); Fed. R. Civ. P. 72, Advisory
26 Committee Notes (1983) (providing that the Court “need only satisfy itself that there is no
27 clear error on the face of the record in order to accept the recommendation.”).

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1 Because there is no objection, the Court need not conduct de novo review, and is
2 satisfied Judge Baldwin did not clearly err. Here, Judge Baldwin recommends that
3 Plaintiff's application to proceed *in forma pauperis* be granted because Plaintiff has
4 demonstrated he cannot pay the filing fee. (ECF No. 4 at 2.) However, Judge Baldwin
5 recommends dismissing Plaintiff's civil rights claim both because Plaintiff's requested
6 relief would require him to file a *habeas corpus* action, and because "§ 1983 is not a
7 backdoor through which a federal court may overturn a state court conviction or award
8 relief related to the fact or duration of a sentence." (*Id.* at 4.) Moreover, Judge Baldwin
9 found amendment would be futile because Plaintiff simply cannot obtain the relief he
10 seeks in this § 1983 case. Additionally, Judge Baldwin recommends that Plaintiff's motion
11 for appointment of counsel be denied as moot because Defendants are not state actors
12 for the purposes of § 1983. (*Id.* at 5.) The Court agrees with Judge Baldwin. Having
13 reviewed the R&R and the record in this case, the Court will adopt the R&R in full.

14 It is therefore ordered that Judge Baldwin's Report and Recommendation (ECF
15 No. 4) is accepted and adopted in full.

16 It is further ordered that Plaintiff's application to proceed *in forma pauperis* (ECF
17 No. 1) is granted.

18 It is further ordered that Plaintiff's motion for appointment of counsel (ECF No. 1-
19 2) is denied as moot.

20 It is further ordered that Plaintiff's amended complaint (ECF No. 3) is dismissed
21 without prejudice, and without leave to amend.

22 The Clerk of Court is directed to enter judgment accordingly close this case.

23 DATED THIS 16th Day of November 2020.

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MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE